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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9
10 **AT SEATTLE**

11 **CYNTHIA MCKINNEY,**) Case No. 2:09-cv-01706-RAJ
12)
13 Plaintiff,) **PLAINTIFF'S FIRST AMENDED**
14) **COMPLAINT**
15)
16)
17) **JURY TRIAL DEMANDED**
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11 **CYNTHIA MCKINNEY,**
12 Plaintiff,
13
14 vs.
15 **SENTRY CREDIT, INC.,**
16 Defendant.
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18 **I. NATURE OF ACTION**

19 1. This is an action for damages brought by an individual consumer for
20 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §
21 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington,
22 Chapter 19.16, both of which prohibit debt collectors from engaging in abusive,
23 deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of
24 privacy by intrusion, ancillary to Defendant's collection efforts.
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II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

III. PARTIES

3. Plaintiff, Cynthia McKinney, is a natural person residing in the State of Washington, County of Snohomish, and City of Everett.

4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3), and a “debtor” as defined by RCW § 19.16.100(11).

5. At all relevant times herein, Defendant, Sentry Credit, Inc., (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. § 1692a(5).

6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6), and a “licensee,” as defined by RCW § 19.16.100(9).

IV. FACTUAL ALLEGATIONS

7. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant’s conduct violated the FDCPA and RCW § 19.16 in multiple ways, including but not limited to:

- a. Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff, including stating that Defendant could continue with collection activities after Plaintiff filed bankruptcy (§ 1692e(10));
- b. Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§ 1692d(5));
- c. Repeatedly contacting Plaintiff at his/her place of employment after being informed that such calls are inconvenient to Plaintiff and violate the policy of Plaintiffs employer (§ 1692c(a)(1)(3));
- d. Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff, including threatening to serve Plaintiff with a lawsuit at her place of employment, when in fact Plaintiff was served at her home (§ 1692e(10));
- e. Where Defendant had not yet made an attempt to contact Plaintiffs counsel or had not given Plaintiffs counsel sufficient time to respond to the initial attempt to communicate with Plaintiffs counsel, and where Plaintiffs counsel had not given Defendant permission to contact Plaintiff directly, communicating with Plaintiff directly after learning that Plaintiff is being represented by counsel. Defendant contacted Plaintiff several weeks after Defendant had received a demand letter and also several weeks after Defendant spoke directly with Plaintiff's counsel about her claim (§ 1692c(a)(2));
- f. Failing to provide Plaintiff with the notices required by 15 USC § 1692g, either in the initial communication with Plaintiff, or in writing within 5 days thereof, including failing to send anything in writing whatsoever to Plaintiff regarding the debt (§ 1692g(a)).

8. Defendant's aforementioned activities, set out in paragraph 7, also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. With respect to the setting that was the target of Defendant's intrusions,

1 Plaintiff had a subjective expectation of privacy that was objectively reasonable
2 under the circumstances.
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4 9. As a result of Defendant's behavior, detailed above, Plaintiff
5 suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,
6 embarrassment, mental anguish and emotional distress.
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8 **COUNT I: VIOLATION OF FAIR DEBT**
9 **COLLECTION PRACTICES ACT**
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11 10. Plaintiff reincorporates by reference all of the preceding paragraphs.
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13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff respectfully prays that judgment be entered
15 against the Defendant for the following:
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- 17 A. Declaratory judgment that Defendant's conduct
18 violated the FDCPA;
19 B. Actual damages;
20 C. Statutory damages;
21 D. Costs and reasonable attorney's fees; and,
22 E. For such other and further relief as may be just and proper.

23 **COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY**
24 **ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON**
25 **CONSUMER PROTECTION ACT**
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27 11. Plaintiff reincorporates by reference all of the preceding paragraphs.
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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff respectfully prays that judgment be entered
3
4 against the Defendant for the following:

- 5 A. Actual damages;
6 B. Discretionary Treble Damages;
7 C. Costs and reasonable attorney's fees,
8 D. For such other and further relief as may be just and proper.
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10 **COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION**

11 12. Plaintiff reincorporates by reference all of the preceding paragraphs.
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13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff respectfully prays that judgment be entered
15 against the Defendant for the following:

- 16 A. Actual damages
17 B. Punitive Damages; and,
18 C. For such other and further relief as may be just and proper.
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21 Respectfully submitted this 14th day of December, 2009.
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23

24 s/Jon N. Robbins
25 Jon N. Robbins
26 WEISBERG & MEYERS, LLC
27 Attorney for Plaintiff
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